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OGC Has Reviewed

10 February 1950

MEMORANDUM FOR THE FILES

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SUBJECT: Delegation of Authority to [REDACTED]

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1. Reference is made to Project [REDACTED] in connection with the collection, evaluation, and reporting of scientific intelligence information from overseas sources. This Project will involve the travel of CIA representatives to the foreign area concerned where it is expected, among other things, that the employment or hire of consultants and experts, stenographic help, and other local persons will be required.

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2. [REDACTED] has been designated as the officer in charge of the mission with full authority to act as the Approving Officer within the meaning of [REDACTED] of the Confidential Funds Regulations, and to consummate the various arrangements contemplated under [REDACTED] of the instrument of delegation.

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3. The question has been informally raised as to whether the aforesaid instrument dated January 25, 1950, signed by the Acting Executive, is a valid and effective delegation. This observation is prompted by the apparent conflict with the principle that discretionary authority may not be delegated to other than officials authorized to act in place of the Head of the Agency, and that such authority must flow from the source of the power and not from subordinate officials. In short, is the subject delegation concerned with a non-redelegable power insofar as the office of the Executive is concerned?

4. If the present case involved the appointment of employees to the various classes recognized by Chapter 13, Title 5, USCA, no argument could be advanced nor, is it believed, could an argument be advanced where the status of employer-employee is created without regard to the principles governing the appointment of employees. However, it is felt that the instant delegation is distinguishable in fact, though the language used would appear to suggest otherwise. It is the understanding of this office that the information to be acquired from the foreign consultants or experts will be in the nature of a contract for personal services, as will the fleeting and temporary employment of stenographic and other local persons. On this basis, therefore, it appears that the Executive has delegated authority to [REDACTED] to enter into contracts for the procurement of materials and services. Redelegability of the contracting power in this light appears to be sustainable.

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In the event an inquiry is made into the effectiveness of the subject delegation, it is believed that the foregoing argument can prevail. In the event the Executive desires to effect further delegations of this character, it would seem desirable to fashion language more appropriate to the circumstances.

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